



K - 12

Subcommittee

Tuesday, January 26, 2016

9:00 A.M. – 11:00 A.M.

Morris Hall (17 HOB)

Meeting Packet

**Steve Crisafulli
Speaker**

**Janet Adkins
Chair**



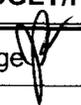
AGENDA

K-12 Subcommittee
Tuesday, January 26, 2016
9:00 A.M. – 11:00 A.M.
Morris Hall (17 HOB)

- I. Call to Order/Roll Call
- II. Welcome/Opening Remarks
- III. Consideration of the following bill(s):
 - HB 833 Public School Recess by Plasencia, Cortes, B.
 - HB 873 Special Facility Construction Account by Diaz. M.
 - HB 907 Youth Suicide Awareness and Prevention by Eagle
 - HB 1155 Membership Associations by Eisnaugle
 - HB 1305 Student Health by Eagle
- IV. Consideration of the following proposed committee substitute(s):
 - PCS for HB 1003 – Employment After Retirement of School District Personnel
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 833 Public School Recess
SPONSOR(S): Plasencia and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 1002

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Brink 	Fudge 
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

Current law establishes minimum time requirements for physical education instruction in public schools. However, there are no similar provisions related to school recess, which some organizations consider to be an integral component of a child's physical, social, and academic development.

The bill requires each district school board to provide 100 minutes of supervised, safe, and unstructured free-play recess each week for students in kindergarten through grade 5 and for students in grade 6 who are enrolled in a school that contains one or more elementary grades. The recess must be provided for at least 20 consecutive minutes each day and may not be withheld for academic or punitive reasons.

The bill may have a fiscal impact on school districts. See FISCAL COMMENTS, *infra*.

The bill takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Minimum Instructional Hours

Generally, for purposes of the Florida Education Finance Program, a “full-time student” is a student on the membership roll of one school program or a combination of school programs for the school year for no less than 900 hours of instruction for a student in grades 4 through 12, or not less than 720 hours of instruction for a student in kindergarten through grade 3.¹

Thus, in order to receive full funding based on full-time equivalent student membership, an elementary school must provide during the 180-day school year no fewer than 900 hours of instruction for 4th and 5th grade students and no fewer than 720 hours of instruction for K-3 students. This results in an average of 5 hours of instructional time per day for 4th and 5th grade students and 4 hours per day for K-3 students. The instructional time does not include lunch or recess.

Time-Based Instructional Requirements

State Board of Education rule requires that elementary schools teach reading each school day in a “dedicated, uninterrupted block of time of at least ninety (90) minutes duration” to all students.² In addition, schools that are included in the 300 lowest-performing elementary schools based on state reading assessments must provide an additional hour of instruction beyond the normal school day for each day of the entire school year for intensive reading instruction for their students.³

Further, current law requires each school board to provide 150 minutes of physical education each week for students in kindergarten through grade 5 and for students in grade 6 who are enrolled in a public school that contains one or more elementary grades, so that on any day during which physical education instruction is conducted, there are at least 30 consecutive minutes of instruction per day.⁴ This means that reading and physical education take up 2 of the 4 minimum, daily instructional hours for K-3 students and 2 of the 5 minimum, daily instructional hours for 4th and 5th graders.

The equivalent of one class period per day of physical education for one semester of each year is required for students enrolled in grades 6 through 8.⁵

Students enrolled in physical education instruction must be reported through the periodic student membership surveys. Records of physical education enrollment are subject to audit by the Auditor General.⁶

The requirements for physical education in public elementary and middle schools must be waived for a student who meets one of the following criteria:

- The student is enrolled or required to enroll in a remedial course;
- The parent requests in writing that the student enrolls in another course from among those courses offered as options by the school district; or

¹ Section 101.61(1)(a)1., F.S.

² Rule 6A-6.053, F.A.C.

³ Section 1011.62(1)(f)2., F.S. Students who earn a Level 5 on the statewide, standardized English Language Arts assessment may, but are not required to, participate in the additional hour. *Id.*

⁴ Section 1003.455(3), F.S.

⁵ *Id.*

⁶ *Id.* The audits must be conducted pursuant to s. 1010.305, F.S.

- The student's parent indicates in writing to the school that the student is participating in physical activities outside the school day which are equal to or in excess of the mandated requirements.⁷

While the law provides requirements related to physical education, there are no such provisions related to school recess. At least one district school board has voluntarily adopted a resolution to provide recess to elementary school students on days during which they are not scheduled for physical education instruction.⁸ Other school districts expressly require students be provided recess or physical activity in school board policy.⁹

The National Association for Sport and Physical Education (NASPE) recommends that all elementary school children be provided with at least one daily period of recess of at least 20 minutes in length.¹⁰

Effect of Proposed Changes

The bill requires each district school board to provide 100 minutes of supervised, safe, and unstructured free-play recess each week for students in kindergarten through grade 5 and for students in grade 6 who are enrolled in a school that contains one or more elementary grades. The recess must be provided for at least 20 consecutive minutes each day and may not be withheld for academic or punitive reasons.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.455, F.S.; Requiring each district school board to provide students in certain grades with consecutive minutes of free-play recess per day; providing that free-play recess may not be withheld for specified reasons.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

⁷ Section 1003.455(4), F.S.

⁸ Orange County Public School District, *Orange County Public Schools Resolution on Recess* (June 23, 2015), available at <https://www.ocps.net/sb/Documents/2015%20School%20Board%20Items/Recess%20Resolution%202015%20OCPS.pdf>.

⁹ See Osceola County School Board, *The School District of Osceola County, Florida Wellness Program*, at 5 (Feb. 17, 2015), available at http://www.osceola.k12.fl.us/Resources/Student_Resources/documents/WellnessProgramUpdated2015.pdf (requiring that all students in Kindergarten through grade 5 receive 20 minutes of "recess/physical activity" each day).

¹⁰ Position Paper, National Association for Sport and Physical Education, *Recess for Elementary School Students* (2006), available at <http://www.aahperd.org/naspe/standards/upload/Recess-for-Elementary-School-Students-2006.pdf>.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The requirement for additional free-play recess will not require additional state funds. However, the districts may incur additional costs associated with the 20 minutes of free-play recess replacing current instructional time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to public school recess; amending s.
 3 1003.455, F.S.; requiring each district school board
 4 to provide students in certain grades with consecutive
 5 minutes of free-play recess per day; providing that
 6 free-play recess may not be withheld for specified
 7 reasons; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsection (3) of section 1003.455, Florida
 12 Statutes, is amended, and subsection (6) is added to that
 13 section, to read:

14 1003.455 Physical education; assessment.—

15 (3) Each district school board shall provide 150 minutes
 16 of physical education each week for students in kindergarten
 17 through grade 5 and for students in grade 6 who are enrolled in
 18 a school that contains one or more elementary grades so that on
 19 any day during which physical education instruction is conducted
 20 there are at least 30 consecutive minutes of physical education
 21 instruction per day. Beginning with the 2009-2010 school year,
 22 the equivalent of one class period per day of physical education
 23 for one semester of each year is required for students enrolled
 24 in grades 6 through 8. Students enrolled in such instruction
 25 shall be reported through the periodic student membership
 26 surveys, and records of such enrollment shall be audited

27 pursuant to s. 1010.305. Such instruction may be provided by any
28 instructional personnel as defined in s. 1012.01(2), regardless
29 of certification, who are designated by the school principal.

30 (6) In addition to the requirements in subsection (3),
31 each district school board shall provide 100 minutes of
32 supervised, safe, and unstructured free-play recess each week
33 for students in kindergarten through grade 5 and for students in
34 grade 6 who are enrolled in a school that contains one or more
35 elementary grades so that there are at least 20 consecutive
36 minutes of free-play recess per day. Free-play recess may not be
37 withheld for academic or punitive reasons.

38 Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 873 Special Facility Construction Account

SPONSOR(S): Diaz, Jr.

TIED BILLS: IDEN./SIM. BILLS: SB 1064

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Cherry TC	Fudge 
2) Appropriations Committee			
3) Education Committee			

SUMMARY ANALYSIS

The Special Facility Construction Account (SFCA) provides construction funds to school districts which have urgent construction needs but lack sufficient resources. The bill modifies current law regarding the SFCA to incorporate technical changes suggested by the Department of Education and options recommended by the Office of Program Policy Analysis and Government Accountability (OPPAGA) to improve the effectiveness of the construction projects funded by the SFCA. Specifically, the bill:

- Modifies school district participation requirements pertaining to new construction funding and discretionary capital improvement millage funding.
- Changes the annual deadline for district school boards to certify final phase construction plans as complete and in compliance with the required codes.
- Specifies that a representative of the department must chair the Special Facility Construction Committee (SFCC); and
- Modifies requirements relating to application review, student enrollment projections, educational plant surveys, and project cost overruns.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The SFCA is established as part of the Public Education Capital Outlay (PECO) and Debt Service Trust Fund to provide construction funds to school districts that have urgent construction needs but lack sufficient resources, and has no reasonable expectation of raising the needed funds over the next three years from authorized sources of capital outlay revenue.¹ A district may not receive funds for more than one approved project in any 3-year period.² The department must encourage a construction project that reduces the average size of schools in the district.³

Typically, the projects that receive funds through the SFCA are located in rural areas and that have an insufficient tax base to fund large construction projects.⁴ The state's smaller school districts, which serve fewer than 20,000 students, generally raise considerably less through local discretionary property taxes than larger Florida school districts.⁵ To improve the effectiveness of programs funded by the SFCA, the OPPAGA recommended the following:

- Clarify the types of projects that are eligible for funding
- Clarify the department's rule in making funding decisions.
- Require that the department conduct educational plant surveys.
- Require the department to approve the final construction plans for funded projects.
- Change the membership of the project selection committee; and
- Require districts to levy the maximum discretionary millage prior to their application.⁶

District Effort and Participation Requirement

To receive funds from the SFCA, districts must, at the time of request for funds and for a continuing period of 3 years, levy the maximum millage against their nonexempt assessed property value or raise an equivalent amount of revenue from the school capital outlay surtax.⁷ Additionally, districts must apply unencumbered Capital Outlay and Debt Service funds, PECO new construction funds, and discretionary capital improvement millage funds to the project.⁸ The district must also forego all fixed capital outlay funding for a period of 3 years.⁹ This leaves participating districts with limited ability to pay for other fixed capital outlay needs.¹⁰

Construction Plans

District school boards must certify that final phase III construction plans are complete and in compliance with the building and life safety codes before August 1.¹¹ This deadline does not provide the

¹ Section 1013.64(2)(a), F.S.

² *Id.*

³ *Id.*

⁴ Office of Program Policy Analysis and Government Accountability, *Special Facility Construction Projects Appear Needed, but Have Excess Capacity* (Report No. 11-02), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1102rpt.pdf>, at 1.

⁵ *Id.*

⁶ *Id.* at 12.

⁷ Section 1013.64(2)(a)8., F.S.

⁸ Article XII, section 9(d) of the Constitution of the State of Florida requires the revenues derived from the licensing of motor vehicles to be placed monthly in the school district and community college capital outlay and debt service fund in the state treasury and used only as specified.

⁹ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

¹⁰ *Id.*

¹¹ Section 1013.64(2)(a)12., F.S.

department sufficient time to review the construction plans before such plans are considered by the Special Facility Construction Committee (SFCC).¹² Small districts do not have the expertise to determine if an architect used the most cost-effective school design or overbuilt the school.¹³ As a result, such districts may not identify features that do not add value or may incur controllable cost overruns.¹⁴

Special Facility Construction Committee

The SFCC is responsible for a preapplication review of a school district's funding requests for special facility construction projects. The SFCC is composed of:

- Two department representatives;
- A representative from the Governor's office;
- A representative selected annually by the district school boards; and
- A representative selected annually by the superintendents.¹⁵

The law does not specify which representative serves as the committee chair but in practice a department representative serves this role.¹⁶ Additionally, the law authorizes a project review subcommittee, convened by the SFCC, to review preapplications.¹⁷ The subcommittee is composed of:

- Two department representatives; and
- Two staff from school districts that are not eligible to participate in the Special Facility Construction program.¹⁸

The SFCC and the subcommittee evaluate the ability of the projects to relieve critical needs and rank the requests in priority order.¹⁹ The statewide priority list for special facilities construction must be submitted to the Legislature in the Commissioner of Education's annual capital outlay legislative budget request at least 45 days before the legislative session.²⁰

Application Review

Within 60 days after receiving the preapplication review request, the SFCC or subcommittee must meet in the school district to review the project proposal and existing facilities.²¹ The law, however, does not specify a deadline for the school districts to submit the preapplications for review by the committee or subcommittee.²² In practice, to meet the deadline for the commissioner to submit the capital outlay legislative budget request, the department convenes the committee meeting in August of each year.²³

Determining Critical Need

To determine whether a school district's proposed construction project is a critical need, the SFCC or subcommittee must consider:

¹² Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 1013.64(2)(b), F.S.

¹⁶ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

¹⁷ Section 1013.64(2)(a)1., F.S.

¹⁸ *Id.*

¹⁹ Section 1013.64(2)(a)1. and (c), F.S.

²⁰ Section 1013.64(2)(c), F.S.

²¹ *Id.*

²² Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

²³ *Id.*

- The capacity of all existing facilities within the district as determined by the Florida Inventory of School Houses;
- The district's pattern of student growth; and
- The district's existing and projected capital outlay full-time equivalent student enrollment as determined by the department.

Laws governing educational facilities plans²⁴ require such plans to be based on demographic, revenue, and education estimating conferences.²⁵

Educational Plant Surveys

To be considered for funding through the SFCA, the construction project must be recommended in the most recent survey or surveys by the school district under the rules of the State Board of Education.²⁶ School districts may:

- Contract with a private consultant to conduct the educational plant surveys,
- Request the department to conduct facility reviews; or
- Conduct the surveys in-house.²⁷

Since 1998, school districts have hired private consultants to conduct surveys for 19 of the 24 projects that received funding through the SFCA, "in part, because the districts believed this provided an independent, third-party assessment of their facilities' needs."²⁸ Often these consultants also worked for firms that designed or constructed the facilities.²⁹ Between 2010 and 2015, 13 school districts requested funding, which included 5 districts that contracted with private consultants to conduct the educational plant surveys.³⁰

Project Cost Overruns

Project costs are limited by the statutorily established maximum cost per student station.³¹ However, the law is silent regarding cost increases and changes in project scope.³² The department identified three projects since 1998 in which the final cost exceeded the amount that the committee originally approved.³³

Effect of Proposed Changes

The bill modifies current law regarding the SFCA to incorporate technical changes suggested by the department and options recommended by OPPAGA to improve the effectiveness of the construction projects funded by the SFCA.³⁴

²⁴ Sections 1013.31 and 1013.35(2)(a)1., F.S.

²⁵ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3-4.

²⁶ Section 1013.64(2)(a)2., F.S.

²⁷ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4.

²⁸ Office of Program Policy Analysis and Government Accountability, *Special Facility Construction Projects Appear Needed, but Have Excess Capacity* (Report No. 11-02), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1102rpt.pdf>, at 8.

²⁹ *Id.*

³⁰ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4.

³¹ Section 1013.62(6)(b)1., F.S., see also Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4. Cost per student station includes contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. Cost per student station does not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements. Section 103.64(6), F.S.

³² Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 4.

³³ Office of Program Policy Analysis and Government Accountability, *Special Facility Construction Projects Appear Needed, but Have Excess Capacity* (Report No. 11-02), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1102rpt.pdf>, at 11.

³⁴ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 3.

The bill preserves the prohibition on a school district from receiving SFCA funding for more than one approved project within a 3-year period. However, the bill extends this prohibition to any time during which any portion of the district's participation requirement remains outstanding. As a result, this modification may help to allocate SFCA funds for targeted construction projects to meet critical need.

District Effort and Participation Requirement

The bill clarifies that a school district's participation requirement is equivalent to all unencumbered and future revenue acquired during a 3-year period, beginning with the year of the initial appropriation and the next two years from Capital Outlay and Debt Service funding, PECO new construction funding, and discretionary capital improvement millage funding. In addition, the bill:

- Requires that beginning in the 2019-2020 fiscal year, a school district seeking SFCA funding for a construction project must have levied the maximum discretionary capital improvement millage against its nonexempt assessed property value, as authorized in law,³⁵ or an equivalent amount of revenue from the school capital outlay sales surtax, as authorized in law,³⁶ for a minimum of three years prior to the request and for a continuing period necessary to meet the district's participation requirement;
- Removes the requirement that a school district's participation requirement be satisfied within a 3-year period.
- Reduces from 1.5 mills to 1.0 mill, the value of the discretionary capital improvement millage that a school district with a new or active project must budget annually until the district's participation requirement is met.

A district school board must set the discretionary capital improvement millage levy rate at a public meeting.³⁷ The school capital outlay surtax is subject to approval by voter referendum.³⁸

Construction Plans

The bill makes June 1 the annual deadline for the district school boards to certify their final phase III construction plans as complete and in compliance with the building and life safety codes. This modification addresses an existing issue regarding insufficient time for the department to review the construction plans before such plans are considered by the SFCC. The modified deadline will allow the department to:

- Review the construction plans before convening the committee meeting in August of each year; and
- Advise the committee whether the construction plans are economical and compliant with the required codes.³⁹

Special Facility Construction Committee

The bill codifies current practice by specifying that a representative of the department must chair the SFCC. This modification will allow the department to designate one of its two representatives to the SFCC to serve as the committee chair. The bill does not alter the composition of either the SFCC or the project review subcommittee.

³⁵ Section 1011.71(2), F.S.

³⁶ Section 212.055(6), F.S.

³⁷ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 7.

³⁸ *Id.*

³⁹ Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 1064 (Dec. 4, 2015), at 5.

Application Review

The bill specifies that a school district may request a preapplication review of the district's construction project proposal at any time. However, if the district school board seeks inclusion in the department's next annual capital outlay legislative budget request, the district must make the preapplication review request before February 1.

Additionally, the bill changes the deadline for the committee or subcommittee to complete the preapplication review from 60 days to 90 days after receiving the preapplication review request.

Determining Critical Need

The bill modifies the way the SFCC and project review subcommittee determines whether a proposed construction project is a critical need. The bill requires the use of capital outlay enrollment projections that are based on demographic, revenue, and education estimating conferences rather than the enrollment projections determined by the department. This modification aligns the change in projecting student enrollment to existing laws governing educational facilities plans.⁴⁰

Educational Plant Surveys

The bill requires proposed special facility construction projects to be included in the most recent survey or survey amendment that is collaboratively prepared by a school district seeking SFCA funding and the department. This modification will allow the department to better assess the need for special facility construction projects and provide assurance to other school districts and the general public that the SFCA funds are spent on critically needed capital projects.⁴¹

The bill also precludes a district, in preparation of a survey, from using a consultant who is employed by or receiving compensation from a third party that designs or constructs a project recommended by the survey.

Project Cost Overruns

The bill authorizes SFCA funds to be used to pay for cost overruns necessitated by a disaster as defined in law⁴² or an unforeseeable circumstance beyond the district's control as determined by the SFCC.

B. SECTION DIRECTORY:

Section 1. Amends s. 1013.64, F.S., relating to the Special Facility Construction Account.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Section 252.34, F.S.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) and (b) of subsection (2) of section 1013.64, Florida Statutes, are amended to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "Special Facility Construction Account." The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. A ~~No~~ district may not ~~shall~~ receive funding for more than one approved project in any 3-year period or while any portion of the district's

53 participation requirement remains outstanding. The first year of
54 the 3-year period shall be the first year a district receives an
55 appropriation. The department shall encourage a construction
56 program that reduces the average size of schools in the
57 district. The request must meet the following criteria to be
58 considered by the committee:

59 1. The project must be deemed a critical need and must be
60 recommended for funding by the Special Facility Construction
61 Committee. Before ~~Prior to~~ developing construction plans for the
62 proposed facility, the district school board must request a
63 preapplication review by the Special Facility Construction
64 Committee or a project review subcommittee convened by the chair
65 of the committee to include two representatives of the
66 department and two staff members from school districts not
67 eligible to participate in the program. The request for a
68 preapplication review may be made at any time; however, for
69 inclusion in the Department of Education's next annual capital
70 outlay legislative budget request, the request for a
71 preapplication review must be made before February 1 of the
72 fiscal year before the legislative budget request. Within 90 ~~60~~
73 days after receiving the preapplication review request, the
74 committee or subcommittee must meet in the school district to
75 review the project proposal and existing facilities. To
76 determine whether the proposed project is a critical need, the
77 committee or subcommittee shall consider, at a minimum, the
78 capacity of all existing facilities within the district as

79 determined by the Florida Inventory of School Houses; the
80 district's pattern of student growth; the district's existing
81 and projected capital outlay full-time equivalent student
82 enrollment as determined by the demographic, revenue, and
83 education estimating conferences established in s. 216.136
84 ~~department~~; the district's existing satisfactory student
85 stations; the use of all existing district property and
86 facilities; grade level configurations; and any other
87 information that may affect the need for the proposed project.

88 2. The construction project must be recommended in the
89 most recent survey or survey amendment cooperatively prepared
90 ~~surveys~~ by the district and the department, and approved by the
91 department under the rules of the State Board of Education. If a
92 district employs a consultant in the preparation of a survey or
93 survey amendment, the consultant may not be employed by or
94 receive compensation from a third party that designs or
95 constructs a project recommended by the survey.

96 3. The construction project must appear on the district's
97 approved project priority list under the rules of the State
98 Board of Education.

99 4. The district must have selected and had approved a site
100 for the construction project in compliance with s. 1013.36 and
101 the rules of the State Board of Education.

102 5. The district shall have developed a district school
103 board adopted list of facilities that do not exceed the norm for
104 net square feet occupancy requirements under the State

105 Requirements for Educational Facilities, using all possible
 106 programmatic combinations for multiple use of space to obtain
 107 maximum daily use of all spaces within the facility under
 108 consideration.

109 6. Upon construction, the total cost per student station,
 110 including change orders, must not exceed the cost per student
 111 station as provided in subsection (6), except for cost overruns
 112 created by a disaster as defined in s. 252.34 or an
 113 unforeseeable circumstance beyond the district's control as
 114 determined by the Special Facility Construction Committee.

115 7. There shall be an agreement signed by the district
 116 school board stating that it will advertise for bids within 30
 117 days of receipt of its encumbrance authorization from the
 118 department.

119 8. For construction projects for which Special Facility
 120 Construction Account funding is sought before the 2019-2020
 121 fiscal year, the district shall, at the time of the request and
 122 for a continuing period necessary to meet the district's
 123 participation requirement under subparagraph 11. ~~of 3 years,~~
 124 levy the maximum millage against their nonexempt assessed
 125 property value as allowed in s. 1011.71(2) or shall raise an
 126 equivalent amount of revenue from the school capital outlay
 127 surtax authorized under s. 212.055(6). Beginning with the 2019-
 128 2020 fiscal year, for construction projects for which Special
 129 Facility Construction Account funding is sought, the district
 130 shall, for a minimum of 3 years before the request and for a

131 continuing period necessary to meet the district's participation
 132 requirement under subparagraph 11., levy the maximum millage
 133 against their nonexempt assessed property value as allowed in s.
 134 1011.71(2) or raise an equivalent amount of revenue from the
 135 school capital outlay surtax authorized under s. 212.055(6). Any
 136 district with a new or active project, funded under the
 137 provisions of this subsection, shall be required to budget no
 138 more than the value of 1.0 mill ~~1.5 mills~~ per year to the
 139 project until the district's ~~to satisfy the annual~~ participation
 140 requirement relating to the local discretionary capital
 141 improvement millage authorized under s. 1011.71(2) or the
 142 equivalent amount of revenue from the school capital outlay
 143 surtax authorized under s. 212.055(6) is satisfied ~~in the~~
 144 ~~Special Facility Construction Account.~~

145 9. If a contract has not been signed 90 days after the
 146 advertising of bids, the funding for the specific project shall
 147 revert to the Special Facility New Construction Account to be
 148 reallocated to other projects on the list. However, an
 149 additional 90 days may be granted by the commissioner.

150 10. The department shall certify the inability of the
 151 district to fund the survey-recommended project over a
 152 continuous 3-year period using projected capital outlay revenue
 153 derived from s. 9(d), Art. XII of the State Constitution, as
 154 amended, paragraph (3)(a) of this section, and s. 1011.71(2).

155 11. The district shall have on file with the department an
 156 adopted resolution acknowledging its ~~3-year~~ commitment to

157 satisfy its participation requirement. The district's
 158 participation requirement is equivalent to ~~of~~ all unencumbered
 159 and future revenue acquired in the year of the initial
 160 appropriation and for the 2 years immediately following the
 161 initial appropriation from s. 9(d), Art. XII of the State
 162 Constitution, as amended, paragraph (3)(a) of this section, and
 163 s. 1011.71(2).

164 12. Final phase III plans must be certified by the
 165 district school board as complete and in compliance with the
 166 building and life safety codes before June 1 of the year the
 167 application is made ~~prior to August 1.~~

168 (b) The Special Facility Construction Committee shall be
 169 composed of the following: two representatives of the Department
 170 of Education, a representative from the Governor's office, a
 171 representative selected annually by the district school boards,
 172 and a representative selected annually by the superintendents. A
 173 representative of the department shall chair the committee.

174 Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 907 Youth Suicide Awareness and Prevention
SPONSOR(S): Eagle and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 884

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Fudge 	Fudge 
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

In 2014, suicide was the third leading cause of death for ages 5-24 in Florida. For ages 5-14 the suicide rate per 100,000 was .9, while the rate was 10.3 per 100,000 for ages 15-24.

Each person serving in an instructional capacity in a public school must hold a certificate. All professional certificates, except a nonrenewable professional certificate, are renewable for successive periods not to exceed 5 years after the date of submission of documentation of completion of renewal requirements. Applicants for renewal of a professional certificate must earn a minimum of 6 college credits, three of which must be in the applicant's specialization area. Beginning July 1, 2014, an applicant for renewal must also earn a minimum of one college credit in the area of instruction for teaching students with disabilities. All K-12 teachers must participate in continuing education training provided by the Department of Children and Families on identifying and reporting child abuse and neglect.

The bill requires instructional personnel in elementary, middle, and high schools to receive 2 hours of training in youth suicide awareness and prevention beginning with the 2016-2017 school year. The Department of Education must consult with the Statewide Office for Suicide Prevention and suicide prevention experts to develop a list of approved materials. This requirement must be included within existing requirements, may not add to the total hours currently required, and may be satisfied through self-review of the training materials.

The bill also provides that the training received by individuals does not create any new duty of care or basis of liability. In addition, there is no cause of action for any loss or damage caused by an act or omission as a result of those who provide the training as well as those who have received the training, unless it was caused by willful and wanton misconduct.

School districts may incur costs for instructional personnel to attend the training, as well as the costs for substitutes and trainers. These costs are indeterminate.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In Florida, suicide was the third leading cause of death for ages 5-24 in Florida. For ages 5-14 the suicide rate per 100,000 was .9, while the rate was 10.3 per 100,000 for ages 15-24.¹

Required Inservice Training

Each person employed or occupying a position as school supervisor, school principal, teacher, library media specialist, school counselor, athletic coach, or other position in which the employee serves in an instructional capacity, in any public school of any district must hold a certificate.²

District school boards renew state-issued professional certificates for individuals who hold a state-issued professional certificate and are employed by the district.³

All professional certificates, except a nonrenewable professional certificate, are renewable for successive periods not to exceed 5 years after the date of submission of documentation of completion of renewal requirements.⁴

For the renewal of a professional certificate, an applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof.⁵ For each area of specialization on the certificate, the applicant must earn at least 3 of the required credits in the specialization area.⁶ However, the specialization requirement may be satisfied by receiving training in a variety of topics unrelated to the specialization area.⁷ Also, beginning July 1, 2014, an applicant for renewal must earn a minimum of one college credit in the area of instruction for teaching students with disabilities. All K-12 teachers must participate in continuing education training provided by the Department of Children and Families on identifying and reporting child abuse and neglect.⁸

Statewide Office for Suicide Prevention

The Statewide Office of Suicide Prevention is housed within the Department of Children and Families.⁹ Among other things, the office must coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, health care providers, school employees, and other persons who may have contact with persons at risk of suicide.¹⁰

¹ Florida Department of Children and Families, *2015 Annual Report of the Suicide Prevention Coordinating Council* (Jan. 1, 2016), available at

<http://www.dcf.state.fl.us/programs/samh/publications/2015%20Annual%20Report%20of%20the%20Suicide%20Prevention%20Coordinating%20Council.pdf>.

² Section 1012.55(1)(b), F.S.

³ Section 1012.585(1), F.S.

⁴ Section 1012.585(2) and (3), F.S.

⁵ Section 1012.585(3)(a), F.S.

⁶ *Id.*

⁷ The specialization requirement may be met through "clinical educator" training and training in the area of reading, exceptional student education, normal child development, drug abuse, child abuse and neglect, strategies in teach students having limited proficiency in English, strategies in dropout prevention, and training in priority areas identified in the educational goals and performance standards of Florida's K-20 education system. Section 1012.585(3)(a), F.S.

⁸ Section 1012.98(12), F.S.

⁹ Ch. 2011-51, L.O.F.; Section 14.2019, F.S.

¹⁰ Section 14.2019, F.S.

The Statewide Office for Suicide Prevention is required to operate within available resources but is allowed to seek and accept grants or funds from federal, state, or local sources to support the operation and defray the authorized expenses of the office and the Suicide Prevention coordinating Council.¹¹

Effect of Proposed Changes

The bill requires instructional personnel in elementary, middle, and high schools to receive 2 hours of training in youth suicide awareness and prevention beginning with the 2016-2017 school year. The Department of Education must consult with the Statewide Office for Suicide Prevention and suicide prevention experts to develop a list of approved materials. The materials must include training on how to identify appropriate mental health services and how to refer youth and their families to those services. The training requirement must be included within existing requirements, may not add to the total hours currently required, and may be satisfied through self-review of the training materials.

The bill also provides that the training received by individuals does not create any new duty of care or basis of liability. In addition, there is no cause of action for any loss or damage caused by an act or omission as a result of those who provide the training as well as those who have received the training, unless it was caused by willful and wanton misconduct.

B. SECTION DIRECTORY:

Section 1. Creates s. 1012.583, F.S., requiring training in suicide prevention for certain individuals.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

School districts may incur costs for instructional personnel to attend the training, as well as the costs for substitutes and trainers. These costs are indeterminate.¹²

¹¹ *Id.*

¹² Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 884 (on file with staff of the K-12 Subcommittee).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

A bill to be entitled

An act relating to youth suicide awareness and prevention; creating s. 1012.583, F.S.; requiring the Department of Education to incorporate training in youth suicide awareness and prevention into certain instructional personnel continuing education or inservice training requirements; requiring the department, in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to develop a list of approved materials for the training; specifying requirements for training materials; requiring the training to be included in the existing continuing education or inservice training requirements; providing that no cause of action results from the implementation of this act; providing for rulemaking; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1012.583, Florida Statutes, is created to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(1) Beginning with the 2016-2017 school year, the Department of Education shall incorporate 2 hours of training in youth suicide awareness and prevention into existing

27 requirements for continuing education or inservice training for
 28 instructional personnel in elementary school, middle school, and
 29 high school.

30 (2) The department, in consultation with the Statewide
 31 Office for Suicide Prevention and suicide prevention experts,
 32 must develop a list of approved youth suicide awareness and
 33 prevention training materials. The materials:

34 (a) Must include training on how to identify appropriate
 35 mental health services and how to refer youth and their families
 36 to those services.

37 (b) May include materials currently being used by a school
 38 district if the materials meet any criteria established by the
 39 department.

40 (c) May include programs that instructional personnel can
 41 complete through a self-review of approved youth suicide
 42 awareness and prevention materials.

43 (3) The training required by this section must be included
 44 in the existing continuing education or inservice training
 45 requirements for instructional personnel and may not add to the
 46 total hours currently required by the department.

47 (4) A person has no cause of action for any loss or damage
 48 caused by an act or omission resulting from the implementation
 49 of this section or resulting from any training required by this
 50 section unless the loss or damage was caused by willful or
 51 wanton misconduct. This section does not create any new duty of
 52 care or basis of liability.

53 | (5) The State Board of Education may adopt rules to
54 | implement this section.

55 | Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1155 Membership Associations
SPONSOR(S): Eisnaugle
TIED BILLS: IDEN./SIM. **BILLS:** SB 1426

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Dehmer 	Fudge 
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

In Florida, not for profit corporations are regulated by the Florida Not For Profit Corporation Act (Act), which outlines the requirements for creating and managing a not for profit corporation as well as the powers and duties of the corporation. The Act authorizes not for profit corporations to be created for any lawful purpose or purposes not for pecuniary profit and not specifically prohibited to corporations by other state laws.

Not for profit corporations are required to submit an annual report to the Department of State that contains basic information about the corporation, including the date of incorporation, the names and addresses of the corporation's directors and principal officers, and the addresses of certain corporate offices.

A not for profit corporation may receive public funds from the state or a local government in certain situations, such as through a grant or through payment of membership dues authorized for governmental employees and entities who are members of certain types of not for profit corporations.

The bill defines the term "membership association" as a corporation not for profit, including a department or division of such corporation, the majority of whose board members are constitutional officers that operate, control, and supervise public entities that receive annual state appropriations through a statutorily defined formulaic allocation that is funded and prescribed annually in the General Appropriations Act or the substantive bill implementing the annual appropriations act. The bill specifies that the term does not include a labor organization or an entity funded through the Justice Administrative Commission.

The bill requires a membership association to file an annual report with the President of the Senate and the Speaker of the House of Representatives by January 1 of each year. The report must include contact information for the membership association, officers and representatives of the membership association, and any affiliates of the membership association. The report must also include information about the membership association's finances, including the amount of the fee required to become a member and the annual membership dues, a copy of the current financial statements, a description of assets and liabilities, a description of salary and allowances paid to each officer and employee who received more than \$10,000 from the membership association during the preceding fiscal year, the amount of the benefit packages paid to each principal officer, and the amount of disbursements for lobbying activity and litigation.

The bill prohibits a membership association from expending moneys received from public funds on litigation against the state. The bill also authorizes the Auditor General to conduct annual financial and operational audits of the accounts and records of each membership association.

The bill may have an indeterminate positive fiscal impact on state government, and may have an indeterminate but likely minimal negative fiscal impact on the private sector. See Fiscal Analysis section.

The bill takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In Florida, not for profit corporations are regulated by the Florida Not For Profit Corporation Act (Act), which outlines the requirements for creating and managing a not for profit corporation as well as the powers and duties of the corporation.¹ The Act authorizes not for profit corporations to be created for any lawful purpose or purposes that are not for pecuniary profit and that are not specifically prohibited to corporations by other state laws.² The Act specifies that such purposes include charitable, benevolent, eleemosynary, educational, historical, civic, patriotic, political, religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association purposes.³

Florida law authorizes not for profit corporations to operate with the same degree of power provided to for profit corporations in the state, including the power to appoint officers, adopt bylaws, enter into contracts, sue and be sued, and own and convey property.⁴ Officers and directors of certain not for profit corporations are also protected by the same immunity from civil liability provided to directors of for profit corporations.⁵ Unlike for profit corporations, certain not for profit corporations may apply for exemptions from federal, state, and local taxes.⁶

Not for profit corporations are required to submit an annual report to the Department of State that contains the following information:

- The name of the corporation and the state or country under the law of which it is incorporated;
- The date of incorporation or, if a foreign corporation, the date on which it was admitted to conduct its affairs in the state;
- The address of the principal office and the mailing address of the corporation;
- The corporation's federal employer identification number, if any, or, if none, whether one has been applied for;
- The names and business street addresses of its directors and principal officers;
- The street address of its registered office in the state and the name of its registered agent at that office; and
- Such additional information as may be necessary or appropriate to enable the Department of State to carry out the provisions of the Act.⁷

A not for profit corporation may receive public funds from the state or a local government in certain situations. Public funds are defined as "moneys under the jurisdiction or control of the state, a county, or a municipality, including any district, authority, commission, board, or agency thereof and the judicial branch, and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose."⁸ The state or a local government may provide public funds to a not for profit corporation through a grant or through payment of membership dues authorized for governmental employees and entities who are members of certain types of not for profit corporations.⁹

¹ Chapter 90-179, L.O.F.

² Section 617.0301, F.S.

³ *Id.*

⁴ See ss. 617.0302 and 607.0302, F.S.

⁵ See ss. 617.0834 and 607.0831, F.S.

⁶ See 26 U.S.C. s. 501; Section 212.08(7)(p), F.S.

⁷ Section 617.1622, F.S.

⁸ Section 215.85(3)(b), F.S.

⁹ See, e.g., Section 2-103(a), Pinellas County Code (authorizing the board of county commissioners to expend monies from the county general fund for membership fees and dues for county employees and officials for professional associations); Section 120-65(a)(2),

Effect of Proposed Changes

The bill defines the term “membership association” as a corporation not for profit, including a department or division of such corporation, the majority of whose board members are constitutional officers¹⁰ that, pursuant to the statutory definition of District School Board and District Superintendent, operate, control, and supervise public entities that receive annual state appropriations through a statutorily defined formulaic allocation that is funded and prescribed annually in the General Appropriations Act or the substantive bill implementing the annual appropriations act. The bill specifies that the term does not include a labor organization or an entity funded through the Justice Administrative Commission.¹¹

The bill requires a membership association to file an annual report with the President of the Senate and the Speaker of the House of Representatives by January 1 of each year. The report must include the following information:

- The name and address of the membership association and any parent membership association or any state, national, or international membership association with which it is affiliated;
- The names, titles, telephone numbers, and addresses of the principal officers and all representatives of the membership association;
- The amount of the fee required to become a member of the membership association, if any, and of the annual dues that each member must pay;
- The current financial statements of the membership association;
- A copy of the current constitution and bylaws of the membership association;
- A description of the assets and liabilities of the membership association at the beginning and end of the preceding fiscal year;
- A description of the salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and to each employee who, during the preceding fiscal year, received more than \$10,000 in the aggregate from the membership association and any other state, national, or international membership association affiliated with it;
- The annual amount of the benefit packages paid to each of the principal officers of the membership association, including health, major medical, vision, dental, and life insurance as well as retirement plans and automobile allowances;
- The per-member amount of annual dues sent from the membership association to each state, national, or international affiliate;
- The total amount of direct or indirect disbursements for lobbying activity at the federal, state, or local level incurred by the membership association, listed by the full name and address of each person who received a disbursement; and
- The total amount of direct or indirect disbursements for litigation expenses incurred by the membership association, listed by case citation.

The bill prohibits a membership association from expending moneys received from public funds, as defined in s. 215.85, F.S., on litigation against the state.

The bill authorizes the Auditor General to conduct annual financial and operational audits of the accounts and records of each membership association.

South Florida Water Management District Administrative Policies (authorizing the district to pay for an employee’s membership in a professional organization not required by his or her job).

¹⁰Section 112.3142(1), F.S. (provides that “constitutional officers” include the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools).

¹¹ Current law defines a labor organization as “any organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state.” The definition also includes an “employee organization,” as defined in s. 447.203(11), F.S., at such time as it seeks to register pursuant to s. 447.305, F.S. Section 447.02(1), F.S.

STORAGE NAME: h1155.KTS

DATE: 1/22/2016

B. SECTION DIRECTORY:

Section 1. Creates s. 617.221, F.S., relating to membership associations.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on state government as a result of reducing litigation against the state by prohibiting membership associations from using monies received from public funds to pay for such litigation.

2. Expenditures:

The bill may have an insignificant but likely minimal negative fiscal impact on the state as a result of the Legislature having to receive and process the required annual reports from membership associations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate but likely minimal negative fiscal impact on membership associations because they would be required to file an annual report with the Legislature.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

A bill to be entitled

An act relating to membership associations; creating s. 617.221, F.S.; defining the term "membership association"; requiring a membership association to file an annual report with the Legislature; specifying report requirements; prohibiting a membership association from expending public funds on litigation against the state; requiring the Auditor General to conduct an annual financial and operational audit of membership associations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 617.221, Florida Statutes, is created to read:

617.221 Membership associations; reporting requirements; restriction on use of funds.—

(1) As used in this section, the term "membership association" means a corporation not for profit, including a department or division of such corporation, the majority of the board members of which are constitutional officers who, pursuant to s. 1001.32(2) and (3), operate, control, and supervise public entities that receive annual state appropriations through a statutorily defined formulaic allocation that is funded and prescribed annually in the General Appropriations Act or the substantive bill implementing the annual appropriations act. The

27 term does not include a labor organization as defined in s.
 28 447.02 or an entity funded through the Justice Administrative
 29 Commission.

30 (2) A membership association shall file a report with the
 31 President of the Senate and the Speaker of the House of
 32 Representatives by January 1 of each year. The report must
 33 provide:

34 (a) The name and address of the membership association and
 35 any parent membership association or state, national, or
 36 international membership association with which it is
 37 affiliated.

38 (b) The names, titles, telephone numbers, and addresses of
 39 the principal officers and all representatives of the membership
 40 association.

41 (c) The amount of the fee required to become a member of
 42 the membership association, if any, and the annual dues each
 43 member must pay.

44 (d) The current annual financial statements of the
 45 membership association, as described in s. 617.1605.

46 (e) A copy of the current constitution and bylaws of the
 47 membership association.

48 (f) A description of the assets and liabilities of the
 49 membership association at the beginning and end of the preceding
 50 fiscal year.

51 (g) A description of the salary, allowances, and other
 52 direct or indirect disbursements, including reimbursed expenses,

53 to each officer and to each employee who, during the preceding
 54 fiscal year, received more than \$10,000 in the aggregate from
 55 the membership association and any other state, national, or
 56 international membership association affiliated with the
 57 membership association.

58 (h) The annual amount of the following benefit packages
 59 paid to each of the principal officers of the membership
 60 association:

61 1. Health, major medical, vision, dental, and life
 62 insurance.

63 2. Retirement plans.

64 3. Automobile allowances.

65 (i) The per-member amount of annual dues sent from the
 66 membership association to each state, national, or international
 67 affiliate.

68 (j) The total amount of direct or indirect disbursements
 69 for lobbying activity at the federal, state, or local level
 70 incurred by the membership association, listed by full name and
 71 address of each person who received a disbursement.

72 (k) The total amount of direct and indirect disbursements
 73 for litigation expenses incurred by the membership association,
 74 listed by case citation.

75 (3) A membership association may not expend moneys
 76 received from public funds, as defined in s. 215.85(3), on
 77 litigation against the state.

78 (4) Dues paid to a membership association, which are paid

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79 with public funds, shall be assessed for each elected or
80 appointed public officer. If a public officer elects not to join
81 the membership association, the dues assessed to such public
82 officer may not be paid to the membership association.

83 (5) The Auditor General shall conduct an annual financial
84 and operational audit of the accounts and records of each
85 membership association.

86 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1305 Student Health
SPONSOR(S): Eagle and others
TIED BILLS: IDEN./SIM. BILLS: SB 1196

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) K-12 Subcommittee, Dehmer, Fudge.

SUMMARY ANALYSIS

In 2012, the Legislature authorized pharmacists to administer epinephrine using an epinephrine auto-injector (EAI) in the event of an allergic reaction from a vaccine.

In 2013, public and private schools were authorized to purchase and store EAIs on campus. A school that stores EAIs must adopt a physician's protocol for administering the device.

In 2014, the Legislature amended the law governing insect sting emergency treatment by creating new and expanding existing provisions in s. 381.88, F.S., related to emergency allergy treatment.

Section 381.88 (2)(b), F.S. defines "authorized entity" as an entity or organization at or in connection with which allergens capable of causing a severe allergic reaction may be present.

The bill includes private schools in the definition of authorized entities for the purpose of acquiring a supply of and administering EAIs. The law also applies the civil liability immunity protections in the Good Samaritan Act to private schools.

The bill authorizes public and private schools to receive EAIs free of charge or to purchase EAIs from a manufacturer or wholesale distributor at fair market value or a reduced price.

The bill takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2012, the Legislature authorized pharmacists to administer epinephrine using an EAI in the event of an allergic reaction from a vaccine.¹ Pharmacists who obtain certification and are authorized to provide vaccines are required to complete a 3-hour continuing education course every two years on the safe and effective administration of vaccines.² The 3-hour course must be offered by a statewide professional association of physicians in this state and is considered part of the 30-hour continuing education requirement for biennial licensure renewal and recertification.³ If a pharmacist fails to take the 3-hour course, the authorization to administer vaccines or epinephrine is revoked.⁴

In 2013, the Legislature authorized public and private schools to purchase and store EAI on campus.⁵ A school that stores EAI must adopt a physician's protocol for administering the device.⁶ The law provides that except for willful and wanton conduct, trained school employees and the physicians who develop the school's protocol on administering the EAI are protected from liability that may result from administering EAI.⁷

Good Samaritan Act

The Good Samaritan Act, found in s. 768.13, F.S., provides immunity from civil liability for those who render emergency care and treatment to individuals in need of assistance. The statute provides immunity from liability for civil damages to any person who:

- Gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations or at the scene of an emergency, without objection of the injured victim, if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.⁸
- Participates in emergency response activities of a community emergency response team if that person acts prudently and within scope of his or her training.⁹
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.¹⁰

In 2014, the Legislature amended the law governing insect sting emergency treatment by creating new and expanding existing provisions in s. 381.88, F.S., related to emergency allergy treatment.¹¹ The law also created s. 381.885, F.S.¹² Together, these laws are referred to as the "Emergency Allergy Treatment Act" ("the Act").

Authorized Entity

¹ Section 465.189(3), F.S.

² Section 465.009(6)(a), F.S.

³ *Id.*

⁴ Section 465.009(6)(c), F.S.

⁵ Section 1002.20(3)(i)2., F.S. (public schools) and section 1002.42(17)(a), F.S. (private schools).

⁶ *Id.*

⁷ Section 1002.20(3)(i)3., F.S. (public schools) and s. 1002.42(17)(b), F.S. (private schools).

⁸ Section 768.13(2)(a), F.S.

⁹ Section 768.13(2)(d), F.S.

¹⁰ Section 768.13(3), F.S.

¹¹ Section 381.88, F.S.

¹² Section 381.885, F.S.

The law defines "authorized entity" as an entity or organization at or in connection with which allergens capable of causing a severe allergic reaction may be present. The term includes, but is not limited to, restaurants, recreation camps, youth sports leagues, theme parks and resorts, and sports arenas. The term also includes a school for the purposes of the educational training programs for recognizing the symptoms of a severe allergic reaction and administering an EAI.¹³

Epinephrine Use and Supply

Currently, public and private schools may purchase EAIs from a wholesale distributor and maintain the EAIs in a locked, secure location on its premises.

Effect of Proposed Changes

The bill includes private schools along with public schools in the definition of authorized entities for the purpose of acquiring a supply of and administering EAIs. The law also applies the civil liability immunity protections in the Good Samaritan Act to private schools.

The bill authorizes public and private schools to receive EAIs free of charge or to purchase EAIs from a manufacturer or wholesale distributor at fair market value or a reduced price.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.88, F.S., relating to emergency allergy treatment.

Section 2. Amends s. 1002.20, F.S., K-12 student and parent rights.

Section 3. Creates s. 1002.42, F.S., relating to private school's epinephrine supply.

Section 4. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

¹³ Section 381.88(2)(b), F.S.
STORAGE NAME: h1305.KTS
DATE: 1/22/2016

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

1 A bill to be entitled
 2 An act relating to student health; amending s. 381.88,
 3 F.S.; revising the definition "authorized entity";
 4 amending ss. 1002.20 and 1002.42, F.S.; authorizing a
 5 public school or private school to receive for free or
 6 purchase at fair market value or at a reduced price a
 7 supply of epinephrine auto-injectors from certain
 8 entities; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (b) of subsection (2) of section
 13 381.88, Florida Statutes, is amended to read:

14 381.88 Emergency allergy treatment.—

15 (2) As used in this section and s. 381.885, the term:

16 (b) "Authorized entity" means an entity or organization at
 17 or in connection with which allergens capable of causing a
 18 severe allergic reaction may be present. The term includes, but
 19 is not limited to, restaurants, recreation camps, youth sports
 20 leagues, theme parks and resorts, and sports arenas. However, a
 21 school as described in s. 1002.20(3)(i) or s. 1002.42(17)(b) is
 22 an authorized entity for the purposes of s. 381.885(4) and (5)
 23 ~~subsection (5)~~ only.

24 Section 2. Paragraph (i) of subsection (3) of section
 25 1002.20, Florida Statutes, is amended to read:

26 1002.20 K-12 student and parent rights.—Parents of public

27 | school students must receive accurate and timely information
 28 | regarding their child's academic progress and must be informed
 29 | of ways they can help their child to succeed in school. K-12
 30 | students and their parents are afforded numerous statutory
 31 | rights including, but not limited to, the following:

32 | (3) HEALTH ISSUES.—

33 | (i) Epinephrine use and supply.—

34 | 1. A student who has experienced or is at risk for life-
 35 | threatening allergic reactions may carry an epinephrine auto-
 36 | injector and self-administer epinephrine by auto-injector while
 37 | in school, participating in school-sponsored activities, or in
 38 | transit to or from school or school-sponsored activities if the
 39 | school has been provided with parental and physician
 40 | authorization. The State Board of Education, in cooperation with
 41 | the Department of Health, shall adopt rules for such use of
 42 | epinephrine auto-injectors that shall include provisions to
 43 | protect the safety of all students from the misuse or abuse of
 44 | auto-injectors. A school district, county health department,
 45 | public-private partner, and their employees and volunteers shall
 46 | be indemnified by the parent of a student authorized to carry an
 47 | epinephrine auto-injector for any and all liability with respect
 48 | to the student's use of an epinephrine auto-injector pursuant to
 49 | this paragraph.

50 | 2. A public school may receive for free or purchase from a
 51 | manufacturer or wholesale distributor as defined in s. 499.003
 52 | at fair market value or reduced price and maintain in a locked,

53 | secure location on its premises a supply of epinephrine auto-
 54 | injectors for use if a student is having an anaphylactic
 55 | reaction. The participating school district shall adopt a
 56 | protocol developed by a licensed physician for the
 57 | administration by school personnel who are trained to recognize
 58 | an anaphylactic reaction and to administer an epinephrine auto-
 59 | injection. The supply of epinephrine auto-injectors may be
 60 | provided to and used by a student authorized to self-administer
 61 | epinephrine by auto-injector under subparagraph 1. or trained
 62 | school personnel.

63 | 3. The school district and its employees and agents, and
 64 | ~~including~~ the physician who provides the standing protocol for
 65 | school epinephrine auto-injectors, are not liable for any injury
 66 | arising from the use of an epinephrine auto-injector
 67 | administered by trained school personnel who follow the adopted
 68 | protocol and whose professional opinion is that the student is
 69 | having an anaphylactic reaction:

70 | a. Unless the trained school personnel's action is willful
 71 | and wanton;

72 | b. Notwithstanding that the parents or guardians of the
 73 | student to whom the epinephrine is administered have not been
 74 | provided notice or have not signed a statement acknowledging
 75 | that the school district is not liable; and

76 | c. Regardless of whether authorization has been given by
 77 | the student's parents or guardians or by the student's
 78 | physician, physician's assistant, or advanced registered nurse

79 practitioner.

80 Section 3. Subsection (17) of section 1002.42, Florida
 81 Statutes, is amended to read:

82 1002.42 Private schools.—

83 (17) EPINEPHRINE SUPPLY.—

84 (a) A private school may receive for free or purchase from
 85 a manufacturer or wholesale distributor as defined in s. 499.003
 86 at fair market value or reduced price and maintain in a locked,
 87 secure location on its premises a supply of epinephrine auto-
 88 injectors for use if a student is having an anaphylactic
 89 reaction. The participating private school shall adopt a
 90 protocol developed by a licensed physician for the
 91 administration by private school personnel who are trained to
 92 recognize an anaphylactic reaction and to administer an
 93 epinephrine auto-injection. The supply of epinephrine auto-
 94 injectors may be provided to and used by a student authorized to
 95 self-administer epinephrine by auto-injector under s.
 96 1002.20(3)(i) or trained school personnel.

97 (b) The private school and its employees and agents, and
 98 ~~including~~ the physician who provides the standing protocol for
 99 school epinephrine auto-injectors, are not liable for any injury
 100 arising from the use of an epinephrine auto-injector
 101 administered by trained school personnel who follow the adopted
 102 protocol and whose professional opinion is that the student is
 103 having an anaphylactic reaction:

104 1. Unless the trained school personnel's action is willful

105 | and wanton;

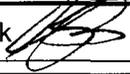
106 | 2. Notwithstanding that the parents or guardians of the
 107 | student to whom the epinephrine is administered have not been
 108 | provided notice or have not signed a statement acknowledging
 109 | that the school district is not liable; and

110 | 3. Regardless of whether authorization has been given by
 111 | the student's parents or guardians or by the student's
 112 | physician, physician's assistant, or advanced registered nurse
 113 | practitioner.

114 | Section 4. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1003 Employment After Retirement of School District Personnel
SPONSOR(S): K-12 Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-12 Subcommittee		Brink 	Fudge 

SUMMARY ANALYSIS

Current law allows Florida Retirement Service (FRS) members to interrupt retirement and be reemployed as instructional personnel in any public school. In 2011, the Legislature amended requirements related to instructional personnel performance evaluations and compensation and prohibited the award of professional service contracts after July 1, 2011.

The bill clarifies that retirees may be reemployed only on a probationary or annual contractual basis consistent with the requirements of the FRS and the Student Success Act.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Student Success Act

In 2011, the Legislature passed the Student Success Act (act), which amended, among other things, requirements related to instructional personnel performance evaluations, compensation, and the award of contracts.¹

Prior to the July 1, 2011, effective date of the act, instructional personnel with as little as three years of service could be granted a professional service contract, which provided for automatic renewal of the contract unless the superintendent charged the employee with unsatisfactory performance.² After passage of the act and related legislation, school districts no longer had authority to award professional service contracts and tenure to any instructional personnel hired on or after July 1, 2011.³ Only instructional personnel who held a current professional service contract could continue employment on a professional service contractual basis so long as they remained employed by the district.

The act created s. 1012.335, F.S., which provides that, as of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may be employed only on a probationary or annual contractual basis. Initially upon hire, instructional personnel must complete a one-year probationary period, during which they may be dismissed without cause or may resign without a breach of contract. A school district may award an annual contract to instructional personnel only after successful completion of a probationary contract.⁴ The section defines an annual contract as an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.⁵

Employment after Retirement

The Florida Retirement System (FRS) is governed by the Florida Retirement System Act.⁶ The FRS, which is a multi-employer, contributory plan, provides retirement income benefits to active members, retired members and beneficiaries, and members of the Deferred Retirement Option Program (DROP). It is the primary retirement plan for employees of state and county government agencies and the state's 67 district school boards, 28 state colleges, and 12 universities. The FRS also serves as the retirement plan for participating employees of the cities and independent hospitals and special districts that have elected to join the system.⁷

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits, or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a member ceases all employment relationships with his or her FRS employer.⁸ Termination is void if any FRS-participating employer reemploys a member a specified period of time.⁹

¹ Chapter 2011-1, L.O.F., *codified in pertinent part at* ss. 1012.33, 1012.335, and 1012.34, F.S.

² *See* s. 1012.33(3)(e), F.S. (2010).

³ *See* s. 13, ch. 2011-1, L.O.F. *See also* s. 19, ch. 2011-37, L.O.F. (deleting language which granted school districts authority to award professional service contracts to any instructional personnel effective July 1, 2011).

⁴ *See* s. 1012.335(2)(a) and (b), F.S.

⁵ Section 1012.335(1)(a), F.S.

⁶ Chapter 121, F.S.

⁷ Florida Retirement System Participating Employers for Plan Year 2015-16, prepared by the Department of Management Services, Division of Retirement, Revised January 2016, at 8. A copy of the document can be found online at:

http://www.dms.myflorida.com/workforce_operations/retirement/publications (last visited Jan. 22, 2016).

⁸ Section 121.021(39)(a), F.S.

⁹ *Id.*

An FRS retiree may be reemployed by an FRS employer provided certain requirements are met. A member who retired before July 1, 2010, may be reemployed by an FRS employer one calendar month after retiring or after the member's DROP termination date. If the retiree is reemployed during months two through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13. However, a retiree who retired before July 1, 2010, may be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.¹⁰

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13.¹¹ The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire on or after July 1, 2010.

Subsection 1012.33(8), F.S., provides that a retired member may interrupt retirement and be reemployed in any public school. Further, the subsection provides that "a member reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1)." However, subsection (1) of s. 1012.33 contains probationary contract provisions relating only to supervisors and school principals, and is silent as to how employment contracts are awarded after the probationary period. It is unclear what type of contract must be provided to reemployed retirees who are initially provided a probationary contract.¹²

Effect of Proposed Changes

The proposed committee substitute clarifies that retirees may be reemployed only on a probationary or annual contractual basis consistent with the requirements of the FRS and the Student Success Act. The proposed committee substitute also clarifies legislative intent concerning eligibility for professional service contracts and annual contracts based upon the Student Success Act.

B. SECTION DIRECTORY:

Section 1. Amends s. 1012.33, F.S.; revising provisions relating to reemployment of retirees as instructional personnel on a contractual basis.

Section 2. Provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

¹⁰ Section 121.091(9)(b), F.S.

¹¹ Section 121.091(9)(c), F.S.

¹² The award of professional service contracts to reemployed FRS members has been the subject of litigation in at least one school district. See *Orange County School Board v. Rachman and Shuman*, 87 So.3d 48 (Fla. 5th DCA 2012) (upholding court order directing the district to award a professional service contract to a reemployed retiree who, after retiring and returning to employment with the district, satisfied all of the statutory requirements for the contract before July 1, 2011). The law has not authorized the award of a professional service contract to any reemployed retiree who did not meet the statutory requirements for the contract prior to July 1, 2011.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
An act relating to employment after retirement of
school district personnel; amending s. 1012.33, F.S.;
revising provisions relating to reemployment of
retirees as instructional personnel on a contractual
basis; providing an effective date.

WHEREAS, before July 1, 2011, only a member of a school
district's instructional personnel who had completed 3 years of
probationary service in the district during a period not in
excess of 5 successive years and satisfied all other
requirements as specified in law was eligible for a professional
service contract, and

WHEREAS, retirees rehired by a school district who did not
complete the statutory requirements for a professional services
contract before July 1, 2011, were not eligible for a
professional services contract, and

WHEREAS, effective July 1, 2011, school districts are
without authority to award professional service contracts to any
instructional personnel due to the enactment of Chapter 2011-1,
Laws of Florida, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) of section 1012.33, Florida
Statutes, is amended to read:

27 1012.33 Contracts with instructional staff, supervisors,
 28 and school principals.—

29 (8) Notwithstanding any other provision of law, a retired
 30 member may interrupt retirement and be reemployed in any public
 31 school. A member ~~reemployed by the same district from which he~~
 32 ~~or she retired~~ may be reemployed only ~~employed~~ on a probationary
 33 or annual contractual basis as provided in s. 1012.335
 34 ~~subsection (1)~~.

35 Section 2. This act shall take effect upon becoming a law.